



## Seventh Generation Interfaith Coalition for Responsible Investment

28 January 2020

Hon. Jay Clayton  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: S7-23-19 Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8; S7-22-19 Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice

Dear Chairman Clayton,

We vigorously oppose the rules proposed by the Securities and Exchange Commission (SEC) on November 5<sup>th</sup>, 2019, which will constrict the rights of shareholders to engage with corporations using the shareholder resolution process over issues with a significant impact on long-term value.

Seventh Generation Interfaith Coalition for Responsible Investment (SGI) was founded in 1973 by several faith leaders in the Milwaukee, WI area including Fr. Mike Crosby, O.F.M., Cap. Father Mike participated in the creation of the Interfaith Center on Corporate Responsibility and helped form many regional Catholic investment coalitions across the country. For more than 45 years, SGI members have engaged companies as active owners concerned with the good of people and the planet, as well as the long-term value of members' investments. While the motivation for our work is grounded in the values and principles of our member organizations, it also stems from the practical conviction that business leaders who choose to serve the common good build more profitable businesses over the long-term....doing financially well while doing social good.

Today, SGI counts 39 institutional faith-based and values-driven members with more than \$16 billion in assets. Literally, we have decades of experience in engaging companies around issues pertaining to the climate crisis, corporate governance, health equity, human rights, food justice, and water stewardship. As long-term investors, we believe that the proposed rules are unnecessary and will undermine a corporate engagement process that has been of great value to both companies and investors.

Over the decades, the shareholder proposal process has served to benefit issuers and proponents alike as an effective, efficient, and valuable tool for corporate management and boards to gain a better understanding of shareholder priorities and concerns. On average, only thirteen (13) percent of Russell 3000 companies received a shareholder proposal in any one year between 2004 and 2017. In other words, the average Russell 3000 company can expect to

receive a proposal once every 7.7 years.<sup>1</sup> The Proposed Rule itself shows that the total number of shareholder proposals is declining.<sup>2</sup> And there are very few “zombie proposals” or frequently resubmitted proposals that gain little support. Since 2010, shareholders resubmitted environmental and social issue proposals only thirty-five (35) times after those proposals gained less than twenty (20) percent support for two or more years. Those thirty-five (35) proposals affected only twenty-six (26) companies.”<sup>3</sup>

Our members have introduced a multitude of shareholder proposals to the companies they own that are now commonplace best practices. It is no wonder that ESG issues have been shown to be important to shareholder value. According to Bank of America, “traditional financial metrics, such as earnings quality, leverage and profitability don’t come close to ESG as a signal of future earnings volatility or bottom-line risk.”<sup>4</sup> Moreover, “15 out of 17 (90%) of bankruptcies in the S&P 500 between 2005 and 2015 were of companies with poor Environmental and Social scores five years prior to the bankruptcies.” Numerous studies and meta studies, such as those documented by Pax World, demonstrate the connection between ESG policies and financial performance.<sup>5</sup> The Proposed Rule would eliminate many ESG proposals, which could result in lower shareholder value.

The proposed increase in ownership thresholds will make it difficult for most of our smaller members to voice important concerns and raise issues of risk. According to data compiled by the Sustainable Investments Institute<sup>6</sup>, 187 shareholder resolutions on social and environmental topics came to a vote at US companies in the spring of 2019. Investors with relatively small stakes, consistent with the existing filing thresholds, filed many of these proposals. However, the proposals received an average of 25.6% support, demonstrating that proposals of interest to a large portion of a company’s shareholder base originate with smaller individual and institutional investors. Excluding this group of shareholders until they have held the shares for three continuous years raises serious questions about the equity of the proposal process and leaves smaller investors who can make valuable contributions without access to the proxy.

The proposed increase in resubmission thresholds threatens to exclude important proposals that gain traction over time and, ultimately, will stifle key reforms. Through the years, our members have filed resolutions that initially received low votes, but went on to receive significant support or have led to productive engagement, as other shareholders came to appreciate the serious risks they presented to companies. The issue of declassified boards is just one example. In 1987, proposals on this issue received under 10% support. By 2012, support grew to 81% and it is now considered to be best practice. When Father Mike proposed climate change resolutions to Exxon Mobil and other oil and gas companies in the 1990’s, they often received 3-5% support from their shareholders. These proposals now receive substantial, and even majority, shareholder votes and have been adapted by numerous companies. A third

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<sup>1</sup> [CII Frequently Asked Questions about Shareholder Proposals](#)

<sup>2</sup> [Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8](#), at p. 75

<sup>3</sup> [CII Frequently Asked Questions about Shareholder Proposals](#)

<sup>4</sup> [ESG Matters](#) - US, Bank of America Merrill Lynch

<sup>5</sup> Pax World “[ESG and Financial Performance: Aggregated Evidence From More Than 2,000 Empirical Studies](#)”

<sup>6</sup> [Si2 ‘FACT SHEET: Shareholder Proposal Trends’](#), Sustainable Investments Institute, Oct.17, 2019.

example is the shareholder resolution requesting more disclosure from Boeing on its lobbying activities. Under the proposed rule changes, this proposal would not have been allowed to proceed past 2016 despite the proposal's generally upward trend in support over ensuing years. Finally, our resolutions highlighting human rights risks in global supply chains initially received low votes at companies. As a result of engagements prompted by the proposals, sector leaders have adopted human rights policies and supplier codes of conduct that help minimize legal, reputational, and financial risks. While it can take some time for shareholders and companies to be educated on emerging issues, these and other votes signal that the proposed rule changes could prevent significant topics from being raised and considered.

In addition to changes to Rule 14a-8, we are also concerned with proposed changes regarding proxy advisory firms. We believe these modifications have the potential to undermine the voice of investors and produce more management-friendly votes. The proposal to require proxy advisory firms allow companies to review and provide feedback on proxy voting advice would greatly impede the ability of institutional investors to get independent advice and information about director elections, "Say on Pay" ballot items, and shareholder proposals. The fact that the proposed rule does not give shareholder proposal proponents and shareholders conducting "vote no" campaigns the same right of review further underlines that the rule changes would provide an unfair advantage to company management to the detriment of shareholders.

We believe the current 14a-8 rule has worked well for decades, and there is no need to revise it. Trade associations like the Business Roundtable, the U.S. Chamber of Commerce, and the National Association of Manufacturers have lobbied rigorously for the proposed changes by exaggerating the cost of the process to companies. They have misleadingly painted our members as "activists" imposing a "social agenda", stating that they are "uninterested in shareholder value." This is simply not true. This misinformation feeds a political agenda by the trade associations to limit the ability of our members to engage with the companies that they own. We engage as shareholders on ESG risks precisely because we are concerned about the long-term health of the companies in which we are invested. Many of the companies that we engage agree that we have helped them mitigate reputational, legal, and financial risks, and build value. The ability to file shareholder resolutions by investors big and small is a crucial part of the engagement process.

Under the proposed rule changes, companies will be made less accountable to shareholders, stakeholders, and the public at large. For the above reasons, we strongly urge the SEC to reconsider the proposed rule changes.

Sincerely,

Francis X Sherman  
Executive Director